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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-895]

Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Low Melt Polyester Staple Fiber from the Republic of Korea

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) and preliminarily determining that Toray Advanced Materials Korea, Inc. (TAK) is the successor-in-interest to Toray Chemical Korea, Inc. (TCK) for purposes of the antidumping duty (AD) order on low melt polyester staple fiber (low melt PSF) from the Republic of Korea (Korea).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Alice Maldonado, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4682.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 2018, Commerce published in the *Federal Register* the *AD Order* on low melt PSF from Korea.<sup>1</sup> TCK, a foreign producer and exporter of low melt PSF from Korea was

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<sup>1</sup> See *Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Antidumping Duty Orders*, 83 FR 40752 (August 16, 2018) (*AD Order*).

assigned a cash deposit rate of 16.27 percent.<sup>2</sup> On May 23, 2019, TAK requested that, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b), Commerce conduct a CCR of the *AD Order* to determine that TAK is the successor-in-interest to TCK and, accordingly, to assign it the cash deposit rate established for TCK.<sup>3</sup> In its submission, TAK explained that TCK, a wholly-owned subsidiary of TAK, merged with TAK in April 2019, and, as a result of the merger, TAK assumed all of TCK's assets, rights, and liabilities.<sup>4</sup> TAK provided source documentation to demonstrate that the management responsible for low melt PSF production remains largely in place after the merger, and TCK's production facilities, suppliers, and customers for low melt PSF are unchanged.<sup>5</sup> TAK further requested that Commerce combine the notice of initiation and preliminary results pursuant to 19 CFR 351.221(c)(3)(ii).<sup>6</sup> We did not receive comments from other interested parties concerning this request.

#### Scope of the *AD Order*

The merchandise subject to this order is synthetic staple fibers, not carded or combed, specifically bi-component polyester fibers having a polyester fiber component that melts at a lower temperature than the other polyester fiber component (low melt PSF). The scope includes bi-component polyester staple fibers of any denier or cut length. The subject merchandise may be coated, usually with a finish or dye, or not coated.

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<sup>2</sup> *Id.*, 83 FR at 40753.

<sup>3</sup> See TAK's Letter, "Low Melt Polyester Staple Fiber from the Republic of Korea: Changed Circumstances Review Request," dated May 23, 2019 (TAK CCR Request) at 1-2.

<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.* at Exhibits 7, 9, 11, and 12.

<sup>6</sup> *Id.* at 2.

Low melt PSF is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 5503.20.0015. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

#### Initiation and Preliminary Results

Pursuant to section 751(b)(1)(A) of the Act and 19 CFR 351.216(d), Commerce will conduct a CCR upon receipt of a request from an interested party for a review of an AD order which shows changed circumstances sufficient to warrant a review of the order. In the past, Commerce has used CCRs to address the applicability of cash deposit rates after there have been changes in the name or structure of a respondent, such as a merger or spinoff ('successor-in-interest' or 'successorship' determinations).<sup>7</sup> The information submitted by TAK supporting its claim that it is the successor-in-interest to TCK demonstrates changed circumstances sufficient to warrant such a review.<sup>8</sup> Therefore, in accordance with 751(b)(1)(A) of the Act and 19 CFR 351.216(d) and (e), we are initiating a CCR based on the information contained in TAK's submission.

Section 351.221(c)(3)(ii) of Commerce's regulations permits Commerce to combine the notice of initiation of a CCR and the notice of preliminary results if Commerce concludes that expedited action is warranted.<sup>9</sup> In this instance, because the record contains information

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<sup>7</sup> See, e.g., *Diamond Sawblades and Parts Thereof from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 82 FR 51605, 51606 (November 7, 2017) (unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review*, 82 FR 60177 (December 19, 2017)).

<sup>8</sup> See 19 CFR 351.216(d).

<sup>9</sup> See 19 CFR 351.221(c)(3)(ii); see also *Certain Pasta from Italy: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 80 FR 33480-41 (June 12, 2015), unchanged in *Certain Pasta from Italy: Final Results of Changed Circumstances Review*, 80 FR 48807 (August 14, 2015).

necessary to make a preliminary finding, we find that expedited action is warranted and have combined the notice of initiation and the notice of preliminary results.

In this CCR, pursuant to section 751(b) of the Act, Commerce conducted a successor-in-interest analysis. In making a successor-in-interest determination, Commerce examines several factors, including, but not limited to, changes in the following: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.<sup>10</sup> While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, generally, Commerce will consider the new company to be the successor to the previous company if the new company's operation is not materially dissimilar to that of its predecessor.<sup>11</sup> Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as essentially the same business entity as the predecessor company, Commerce may assign the new company the cash deposit rate of its predecessor.<sup>12</sup>

Based on the evidence on the record, we preliminarily determine that TAK is the successor-in-interest to TCK. Specifically, record evidence, as submitted by TAK, indicates that TAK operates as essentially the same business entity as TCK with respect to the subject merchandise.<sup>13</sup> For the complete successor-in-interest analysis, refer to the accompanying successor-in-interest memorandum.<sup>14</sup>

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<sup>10</sup> See, e.g., *Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58 (January 2, 2002) (*Rubber from Japan*).

<sup>11</sup> See, e.g., *Fresh and Chilled Atlantic Salmon from Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

<sup>12</sup> *Id.*; see also *Rubber from Japan*, 67 FR 58-59; and *Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review*, 75 FR 34688-89 (June 18, 2010).

<sup>13</sup> See TAK CCR Request.

<sup>14</sup> See Memorandum, "Low Melt Polyester Staple Fiber from the Republic of Korea: Preliminary Successor-In-Interest Determination," dated concurrently with this notice.

Record evidence, as submitted by TAK, indicates that TAK merged with its wholly-owned subsidiary, TCK, and TAK absorbed TCK's low melt PSF business division in its entirety. Specifically, TAK provided the Merger Agreement which transfers TCK's assets, rights, and liabilities to TAK; shareholder information showing the ownership of TCK by TAK before the merger and the ownership of TAK after the merger; approvals from various governing entities confirming the incorporation of TCK's business into TAK; letters notifying clients and investors of the merger and the intent for TCK's business to continue without change; organizational charts demonstrating the production and sales activities of TCK and TAK before the merger and TAK after the merger; a list of the low melt PSF sales team at TCK and at TAK; a list of Board of Directors and other executives before and after the merger; a list of low melt PSF input suppliers and customers before and after the merger; documentation showing low melt PSF production facilities and capacity before and after the merger; and TCK's pre-merger low melt PSF product brochure which TAK used to market low melt PSF after the merger.<sup>15</sup> In summary, TAK presented evidence to support its claim of successorship and the transfer did not impact any of the criteria that Commerce typically looks to when making a changed circumstances determination.

We find that the evidence provided by TAK is sufficient to preliminarily determine that the transfer of TCK's low melt PSF operations to TAK did not affect the company's operations in a meaningful way. Therefore, based on the aforementioned reasons, we preliminarily determine that TAK is the successor-in-interest to TCK and, thus, should receive the same AD treatment with respect to the subject merchandise as its predecessor company, TCK.

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<sup>15</sup> See TAK CCR Request.

Should our final results remain the same as these preliminary results, we will instruct U.S. Customs and Border Protection to suspend entries of subject merchandise produced or exported by TAK at TCK's cash deposit rate, effective on the publication date of our final results.

#### Public Comment

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice. In accordance with 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the case briefs, in accordance with 19 CFR 351.309(d). Parties who submit case or rebuttal briefs are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>16</sup> All comments are to be filed electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) available to registered users at <https://access.trade.gov> and in the Central Records Unit, Room B8024 of the main Commerce building. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the day it is due.<sup>17</sup>

Consistent with 19 CFR 351.216(e), we will issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days of publication of these preliminary results if all parties agree to our preliminary finding.

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<sup>16</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>17</sup> See 19 CFR 351.303(b).

Notification to Interested Parties

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216(b), 351.221(b), and 351.221(c)(3).

Dated: July 8, 2019.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

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